



March 6, 2018

Office of General Counsel, Regulations Division
Department of Housing and Urban Development
451 7th Street, SW
Room 10276
Washington, D.C. 20410-0001

Re: Docket No. FR-5173-N-15 Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants

Submitted via Regulations.gov

Dear Office of General Counsel:

I write to you on behalf of the Connecticut Fair Housing Center to express our strong opposition to HUD's January 5, 2018 Federal Register Notice (Notice), "Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants," which effectively suspends the implementation of the 2015 Affirmatively Furthering Fair Housing (AFFH) Rule until after October 2020. Our mission is to ensure that all people, particularly those with scarce financial resources, have equal access to housing opportunities in Connecticut. By changing the AFFH rule, HUD has frustrated our ability to accomplish our mission.

HUD's 2015 AFFH rule was designed to help undo persistent racial and economic isolation, discourage acts of housing discrimination, and provide greater accountability in the way federal dollars are utilized in our own neighborhoods and for the people we serve. However, HUD's decision to suspend the AFFH rule does the exact opposite. By returning to a system for monitoring AFFH compliance that the Government Accountability Office, in a 2010 report,¹ found highly ineffective, HUD sends a clear message to local governments, Public Housing Authorities (PHAs), states and territories that this Administration will not take on the challenge and fulfill its mandate to eliminate residential segregation. For years, under the previous Analysis of Impediments to Fair Housing (AI) process, HUD's grantees failed to take their fair housing certifications seriously or meaningfully act to eliminate barriers to housing opportunity they identified.

¹ GOV'T ACCOUNTABILITY OFFICE, HUD NEEDS TO ENHANCE ITS REQUIREMENTS AND OVERSIGHT OF JURISDICTIONS' FAIR HOUSING PLANS, GAO-10-905 (Sept. 14, 2010), available at <http://www.gao.gov/products/GAO-10-905>.

For example, one community in Connecticut certified that it had affirmatively furthered fair housing in a year when it held midnight raids on properties inhabited by people from central and South America and prohibited these same groups from using public parks to play volleyball. The differences between an Analysis to Impediments and an Assessment of Fair Housing cannot be overstated.

The AFFH Rule Clearly Defines AFFH and Provides Tools, a Consistent Format, and Data to Assist Jurisdictions in Meeting their Responsibilities

HUD's 2015 AFFH rule defines "AFFH" as taking meaningful actions, beyond combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. Specifically, AFFH means taking actions that address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, connecting racially and ethnically concentrated areas of poverty to greater neighborhood opportunities and community assets, and fostering and maintaining compliance with civil rights and fair housing laws. (24 CFR §5.150). These requirements are codified in HUD's AFFH rule itself.

In contrast, the pre-2015 system to which HUD has returned defines AFFH as conducting an AI, taking unspecified steps to overcome impediments that are identified, and maintaining records reflecting an analysis and actions taken. In this process, jurisdictions and advocates could draw only on The Fair Housing Planning Guide which provides further interpretation but lacks the framework, definitions, and timeframes that makes the AFH process most effective.

The 2015 AFFH rule, templates, and their accompanying data and mapping tools also provide jurisdictions with much-needed structure and resources to conduct a meaningful assessment of barriers to housing opportunity. The AFH template provides jurisdictions with specific questions and analytical standards to consider and think through their specific challenges affecting housing choice and neighborhood opportunity. Paired with the data and mapping tools, jurisdictions could better address the needs of people living in very poor, hyper-segregated neighborhoods, the housing needs of people with disabilities, and the linkages between housing and school, transportation, and employment opportunities – all critical components to ensure people have the greatest chance to thrive in the neighborhood they choose. HUD's previous AI process provided no such templates, data and mapping tools, or analytical frameworks to address communities' most pressing and unmet needs.

For example, in our region many entitlement communities refuse to permit affordable housing into their neighborhoods because they believe it will change the character of their communities. Still others refuse to allow groups homes believing they will bring down home values. These actions are taken even when data shows that placement of affordable housing can promote integration or that housing for people with disabilities is lacking.

The AFFH Rule Strengthened Accountability and Community Input

HUD's 2015 AFFH rule for the first time created a direct link between the fair housing barriers grantees identify and the decisions they make about how to use their housing and community

development resources. It did this by requiring grantees to conduct assessments of barriers to housing choice *prior to* conducting the Consolidated Planning or PHA Planning Process and requiring them to include their strategies for overcoming those barriers in their Consolidated Plans and PHA plans, setting out a specific timeline for each process. As a result, jurisdictions are better positioned to think strategically about how to invest scarce federal housing and community development dollars and take meaningful steps to address barriers throughout the life of a consolidated plan. This is reinforced by the requirement that jurisdictions report on their progress in their annual performance reports and update their plans in their annual action plans. No such requirements existed in the previous AI process, resulting in a failed accountability structure that was ineffective at addressing or removing barriers to opportunity.

Furthermore, the 2015 AFFH rule was crafted to make community engagement pivotal to the successful completion of an AFH. This includes the requirement to provide open access to the public to bring forth concerns in the drafting stages of the AFH, provide the opportunity for stakeholders to submit comments on a draft analysis, and ensure that jurisdictions reply to comments submitted in the public comment process. Prior to this development, local stakeholders representing housing, lending, civil rights, and other groups who observe and work to improve the flow of local housing markets, free of discriminatory barriers, had little influence over how federal funding would be used in their own communities.

By ensuring that jurisdictions provide a seat at the table to all interested parties and openly welcome them, HUD created an avenue through which a jurisdiction could conduct a locally-driven assessment and pursue locally-driven solutions.

We are greatly concerned that HUD's suspension of the AFFH rule and reversion to a system that failed to assist jurisdictions to meet their responsibilities effectively has sent a damaging message to local governments, other stakeholders, and the people we serve that HUD is no longer committed to fully implementing the AFFH provisions of the Fair Housing Act. If HUD was considering such a material change to a formal rule, it should have provided the proper notice to the public and opportunity for comment before suspending the rule. Further, it should have detailed an alternative approach that would provide for effective compliance with this critical aspect of the federal Fair Housing Act.

We support HUD's continued implementation of the 2015 AFFH rule and oppose efforts to delay implementation. The decision to delay implementing the AFFH rule announced in the Notice is shortsighted, as it ignores the learning experiences and successes of implementation thus far. We ask that HUD rescind this Notice and immediately resume implementing the AFFH rule.

Sincerely,

A handwritten signature in blue ink that reads "Erin Kemple". The signature is written in a cursive, flowing style.

Erin Kemple
Executive Director
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